

SENATE BILL REPORT

SB 6371

As of January 21, 2010

Title: An act relating to money transmitters.

Brief Description: Concerning money transmitters.

Sponsors: Senators McDermott and Berkey; by request of Department of Financial Institutions.

Brief History:

Committee Activity: Financial Institutions, Housing & Insurance: 1/20/10.

SENATE COMMITTEE ON FINANCIAL INSTITUTIONS, HOUSING & INSURANCE

Staff: Diane Smith (786-7410)

Background: The Department of Financial Institutions (DFI) regulates the money transmission and currency exchange businesses under the Uniform Money Services Act (Act). The Act was created in 2003 to protect consumers and to ensure that these businesses are not used for criminal purposes.

Money transmission is the receipt of money for the purpose of transmitting or delivering the money to another location, whether inside or outside the United States. The transmission and delivery of the money can take place by any means, including wire, facsimile, or electronic transfer.

The issuer of stored value is the provider of goods or services. Stored value is the recognition of value or credit to the account of a person who may redeem that value or credit with the provider who issued the stored value.

Money transmitters are required to maintain a surety bond in an amount between \$10,000 and \$50,000 plus \$10,000 per location not exceeding a total addition of \$500,000. The director must require by rule that the money transmitter maintain net worth between \$10,000 and \$50,000. Money transmitters pay an annual license assessment as established by rule by the director.

The money transmitter must submit an annual report along with its annual assessment. This annual report includes a list of the licensee's permissible investments. Permissible

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investments must at all times have a market value not less than the aggregate of all the money transmitter's outstanding money transmission.

Generally accepted accounting principles (GAAP) define the terms, net worth, and tangible net worth differently but with reference to each other.

Permissible investments are defined. Receivables are allowed to be counted toward no more than 20 percent of the required amount of permissible investments.

Money transmitters are required to file specified reports with DFI and with federal agencies.

Every money transmitter must give the customer a receipt that clearly states the amount of money presented for transmission and the total of any fees charged.

An initial application fee, in an amount determined by the director, must accompany the application for an initial license. Thereafter, a licensee must pay an annual license assessment in an amount determined by the director and file its annual report. Fees that the director may set include the annual license assessment fee, a late fee, an hourly examination or investigation fee, the nonrefundable application fee, the pro-rated initial license fee, and a transaction fee.

Certain records must be maintained for at least five years. These include records such as bank statements, general monthly ledgers, names and addresses of the authorized delegates, and copies of all currency transaction reports and suspicious activity reports.

Summary of Bill: A distinction is made between open-loop and closed-loop stored value devices. The current definition of stored value is clarified to apply to the new term, closed-loop stored value devices. Open-loop stored value devices are defined as a different type of stored value. Open-loop means cards or other devices that are redeemable at a wide variety of merchants that are unaffiliated with the issuer, or at automated teller machines.

Closed-loop stored value devices issued by licensed check cashers and sellers are exempt from the Act. Both open and closed-loop stored value devices are exempt from regulation under the money transmitters' law if the funds on the device, immediately upon sale or issuance of the device, are covered by federal deposit insurance.

Based on the standard of, 'necessary to facilitate commerce and protect consumers,' the director may waive the licensing provisions.

A money transmitter's surety bond amount is based on the dollar volume of the previous year's money transmission and on the dollar volume of the previous year's payment instruments. The minimum surety bond amount is unchanged at \$10,000. The maximum surety bond is raised by \$500,000 to \$550,000 however, the reference to the \$10,000 surety bond for each location up to a maximum of \$500,000 is deleted.

The net worth requirement must be tangible net worth. The upper limit of what the director may require is raised from \$50,000 to \$3 million in tangible net worth. Other than by reference to GAAP, the terms net worth and tangible net worth are not defined.

The term annual assessment replaces the term annual license assessment. The amount of the annual assessment is determined by the director and is based on the previous year's business volume. The minimum assessment must be \$1,000 and the maximum may be up to \$100,000.

Among the records that must be maintained for at least five years are added the monthly reports about permissible investments.

The required federal filings must be made only with the applicable federal agency.

The minimum amount of permissible investments that licensees are required to maintain is based on the daily average of their monthly outstanding money transmission liability. Permissible investments may include receivables up to 30 percent of the required amount. It is clarified that restricted assets such as surety bonds pledged to other persons may not be counted toward the minimum required amount of permissible investments.

The director's authority to set the hourly examination fee is deleted.

The receipt given by the licensee to the customer must include the licensee's name, address, and phone number.

Appropriation: None.

Fiscal Note: Requested on January 18, 2010.
[OFM requested ten-year cost projection pursuant to I-960.]

Committee/Commission/Task Force Created: No.

Effective Date: Ninety days after adjournment of session in which bill is passed.

Staff Summary of Public Testimony: PRO: There are two major purposes of this bill: to even out the fee structure for money transmitters and to clarify DFI's authority over certain stored-value devices. The current fee structure requires a yearly examination that costs money transmitters \$500 for each location they do business in Washington and an hourly fee of \$75 for the examiner's time. By removing DFI's authority to charge for the examination, DFI will be able to spend more time with the smaller licensees to provide them with technical assistance. This can be done without having to charge the \$75 per hour fee. Instead, the bill provides DFI with the authority to charge an annual assessment based on a sliding scale, depending on the amount of money transmitted. The minimum is \$1,000 and the maximum is \$100,000. This results in reduction of regulatory costs for all money transmitters but one. That one business transmitted over \$20 million overseas. Until now, the program has not raised in fees money sufficient to cover the costs of its regulation. This change in fee structure will correct that.

Secondly, the bill clarifies that DFI does have jurisdiction over open-looped stored value cards that are not FDIC insured. This will promote the purposes of the act to help ensure that

these businesses are not used for illegal purposes such as money laundering and terrorist funding.

The bill also makes compliance with DFI's regulation smoother and easier for the money transmitters. Over the summer and fall, DFI worked closely with both the small, local businesses, and the larger companies like Western Union and MoneyGram. DFI expresses thanks to Representative Santos for her leadership. Her district contains almost all the money transmitters licensed in this state.

Our company transfers money only on-line. We provide excellent services and excellent tracking of where the money comes from and goes to. As the industry grows and changes, we welcome the protection of the consumer, our country, and other countries. DFI did a great job working with us to provide better service to our customers and to enforce anti-money laundering. They did a great job of encouraging legitimate business. Our business provides good value for US dollar strength overseas.

It is important that immigrant communities are able to send money back to their home countries. We charge based on a percentage of the money transferred so eliminating high examination fees helps us help immigrants in difficult economic times. It also helps us to prosper and to grow. We wholeheartedly support passage. The destination countries also have laws regulating receiving entities. Open-looped cards are available in destination countries. Our business includes loading those electronically so that money can be removed in the destination country from ATMs.

Persons Testifying: PRO: Deb Bortner, DFI; Himanshu Shekhar, President of Digital Transaction Processing, LLC; Abdullahi Jama, One America.